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FILED

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

The People of the State of  
California

Plaintiff,

vs.

Andrew Moore

Defendant

Case No.: 07 CV <sup>2059</sup> ~~1059~~ JPM

**Memorandum of Points and Authorities in  
Support of Motion for Summary Judgment  
or in the alternative motion for  
Adjudication in favor of Andrew Moore.**

**MEMORANDUM POINTS AND AUTHORITIES**

With Motion for Summary Judgment or summary adjudication, the burden is always on the moving party to show there is no trial able issue of material fact. When the moving party is the third party Plaintiff, John and Jane Does 1-10, the burden is to display that there is no perpetration of fraud of legislature by showing the title, and the bonded statutes by legislature/ enacting clause and a verified complaint rather than a sham information / complaint / request for discovery, etc. (231 CA. 3d 338, citing Hayward Union High School District v. Madrid (1965). 234 C.a. 2d 396, Following United Community Church.

1 Under Constitution article 1, section 13, entitling  
2 defendant to demand "nature and cause of accusation" against him  
3 and to have copy thereof. Defendant is entitled to have gist of  
4 offense charged, in direct and unmistakable terms, Large v.  
5 State, 164 NE. 263, 264. 200 Ind. 430.  
6

7  
8 The words "nature and cause of the accusation" in Const.  
9 Bill of Rights, art. 1 section 13, providing that an accused  
10 shall have the right to demand the nature and cause of the  
11 accusation against him, mean that the gist of an offense shall  
12 be charged in direct and unmistakable terms, Hinshaw v. State,  
13 122, NE. 418, 420. 188 Ind. 147. We are constrained to hold that  
14 the petitioner has been denied safeguards guaranteed by Due  
15 Process of Law- safeguard essential to liberty in a government  
16 dedicated to justice under law, Cole v. Arkansas, 333 U.S. 196,  
17 201 (1948).  
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22  
23 Information: 71 The Party is entitled to have offense  
24 charged in direct and unmistakable terms: "nature and cause of  
25 accusation" (Const. Art. 1 section 13).  
26

27 Under Const. art. 1, section 13, entitling defendant to  
28 demand "nature and cause of accusation" against him and to have

1 copy thereof, defendant is entitled to have gist of offense  
2 charged in direct and unmistakable terms.  
3  
4

5 It is the Constitutional Right of the Petitioner to demand  
6 the nature and cause of accusation against him and to have a  
7 copy thereof, Art. 1, section 13, Constitution of Indiana,  
8 *McLaughlin v. State*, 45 IND. 388.  
9

10  
11 In *Hinshaw v. State*, 188 IND. 147, 122 NE. 418, it is said,  
12 the words "nature and cause of accusation" have a well- defined  
13 meaning and at the time of the adoption of the Constitution that  
14 meaning is that the gist of an offense shall be charged in  
15 direct and unmistakable terms. In passing upon the same  
16 provision of the Federal Constitution in *United States v.*  
17 *Cruikshank* (1875) 92 U.S. 542, 557. (23 L Ed. 588) the court  
18 said:  
19  
20

21 In civil cases, under the law of the United States, the  
22 Petitioner has the human /constitutional right to be informed of  
23 the nature and cause of the accusation. Amendment VI in *United*  
24 *States v. Mill* 7 pet. 142. [8 L. Ed. 636] This was construed to  
25 mean that the must set forth the with clearness and necessary  
26 certainty, to apprise the Petitioner of the with which he stands  
27 charged. Also, in *United States v. Cook*, 17 Wall 174. [21 L.  
28

1 Ed. 538] That every ingredient of which the offense is composed  
2 must be accurately and clearly alleged; it is an elementary  
3 principle of pleading that, where the definition of an offense,  
4 whether it be at common law or by statute, includes generic  
5 terms, it is not sufficient that the information shall charge  
6 the offense in the same generic term as in the definition, but  
7 it must state the species: it must descend to the particulars.  
8

9 -9501.5, the enacting clause of every law shall be:

10 -25120, The enacting clause of all ordinances of the board  
11 of supervisors shall be as follows: the Board of supervisor  
12 of the county of San Diego...  
13

14 -25121, every ordinance shall be signed by the chairman of  
15 the board and attested by the clerk.  
16

17 Constitution of California 1879

18 Section 1 "the enacting clause of every law shall be as follows:  
19 The People of the State of California represented in Senate and  
20 Assembly do enact as follows:  
21

22 The Supreme Court of Arkansas, on several occasions, ruled  
23 on the necessity of an enacting clause: As long ago as 1871 in  
24 Vinsant v. Knox, 27 Ark 266. it was held in the Constitutional  
25 provision that the style of all bills should be: "Be it enacted  
26 by the General Assembly of the State of Arkansas," and was  
27 mandatory and a bill without this style was void, although  
28

1 otherwise regularly posed and approved. (Ferrill v. Keel, 151,  
2 S.W. 269, 273, 205 Ark 380 (1912)).

3 The enacting clause is a short, formal statement appearing  
4 after the title, indicating that all which follows is to become  
5 law and gives the authority by which the law is made. There is  
6 no excuse for not using it (Harvey Walker, the Legislative  
7 Process, N.Y. Ronald Press Co. (1948) p. 346.  
8

9 The Supreme Court of Idaho, in construing the purpose for  
10 its Constitutional provision requiring a one subject title on  
11 all laws stated: The object of the title is to give a general  
12 statement of the subject- matter, and such a general statement  
13 will be sufficient to include all provisions of the act having a  
14 reasonable connection with the subject matter mentioned.  
15

16 The object or purpose of the clause in the Constitution of  
17 California is to prevent the perpetration of fraud upon the  
18 members of Legislature or the citizens of the State in the  
19 enactment of laws (ex parte Crane, 151. Pac. 1006, 1010, 1011,  
20 27 Idaho 671 (1915)).  
21

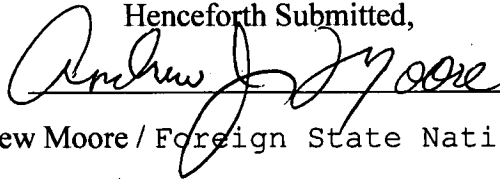
22 The use of such a publication to indict or charge a citizen  
23 with violating such law is fraudulent and obnoxious to the  
24 Constitution. It is to prevent surreptitious, inconsiderate  
25 misapprehended legislation from carelessly, inadvertently, or  
26 unintentionally enacting through stealth and fraud, and similar  
27 abuses that the subject or object of a law is required to be  
28

1 stated in the title (73 AM Jur. 2d statutes, sec 100, p. 325  
2 case cited.  
3  
4

5 A certificate of probable cause is a document issued by the  
6 administrative court, which certify that at least one contention  
7 challenging the plea is not totally frivolous. (Penal Code  
8 1237.5) People v. Ribero (1971) (4 Cal. 3d 55)  
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13 Executed on this **31** day of October, 2007

14 Henceforth Submitted,

15   
16 Andrew Moore / Foreign State National UCC

17 1-207.7 "without prejudice"  
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